

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1826**

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**Introduced by Assembly Member Members Huffman and Feuer**  
(Coauthor: Senator Price)  
**(Coauthors: Assembly Members Beall, Blumenfield, and Saldana)**  
(Coauthors: Senators Pavley, Price, and Yee)

February 11, 2010

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An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Huffman. Health care coverage: prescriptions.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act's requirements *act* a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy ~~that covers~~ *covering* prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would ~~prohibit a health care service plan or a health insurer covering prescription drug benefits from requiring a subscriber, enrollee, or insured who has been prescribed a product for the treatment of pain by his or her health care provider to use a different specified product prior to authorizing coverage of the product prescribed by the health care provider~~ *require a health care service plan or health insurer covering prescription drug benefits to provide coverage for a drug that*

*has been prescribed for the treatment of pain without first requiring the subscriber, enrollee, or insured to use another drug or product.*

*The bill would specify that these provisions do not apply to a health care service plan or health insurance policy purchased by the Board of Administration of the Public Employees' Retirement System.*

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1367.225 is added to the Health and  
2 Safety Code, to read:

3 ~~1367.225. (a) No health care service plan that covers~~  
4 ~~prescription drug benefits shall require a subscriber or enrollee~~  
5 ~~who has been prescribed a product for the treatment of pain by his~~  
6 ~~or her health care provider to use an alternative prescription or an~~  
7 ~~over-the-counter product prior to authorizing coverage of the~~  
8 ~~product prescribed by the health care provider.~~

9 *1367.225. (a) Every health care service plan that covers*  
10 *prescription drug benefits shall provide coverage for a drug that*  
11 *has been prescribed by a participating licensed health care*  
12 *professional for the treatment of pain without first requiring the*  
13 *subscriber or enrollee to use an alternative prescription drug or*  
14 *an over-the-counter product.*

15 (b) This section does not prohibit a health care service plan from  
16 charging a subscriber or enrollee a copayment or a deductible for  
17 prescription drug benefits or from setting forth, by contract,  
18 limitations on maximum coverage of prescription drug benefits,  
19 provided that the copayments, deductibles, or limitations are  
20 reported to, and held unobjectionable by, the director and set forth  
21 to the subscriber or enrollee pursuant to the disclosure provisions  
22 of Section 1363.

1     (c) *This section shall not apply to a health care service plan*  
2 *purchased by the Board of Administration of the Public Employees’*  
3 *Retirement System pursuant to the Public Employees’ Medical*  
4 *and Hospital Care Act (Article 1 (commencing with Section 22750)*  
5 *of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government*  
6 *Code).*

7     SEC. 2. Section 10123.197 is added to the Insurance Code, to  
8 read:

9     ~~10123.197. (a) No health insurer that covers prescription drug~~  
10 ~~benefits shall require an insured who has been prescribed a product~~  
11 ~~for the treatment of pain by his or her health care provider to use~~  
12 ~~an alternative prescription or an over-the-counter product prior to~~  
13 ~~authorizing coverage of the product prescribed by the health care~~  
14 ~~provider.~~

15     10123.197. (a) *Every health insurer that covers prescription*  
16 *drug benefits shall provide coverage for a drug that has been*  
17 *prescribed by a licensed health care professional for the treatment*  
18 *of pain without first requiring the insured to use an alternative*  
19 *prescription drug or an over-the-counter product.*

20     (b) This section does not prohibit a health insurance policy from  
21 charging an insured a copayment or a deductible for prescription  
22 drug benefits or from setting forth, by contract, limitations on  
23 maximum coverage of prescription drug benefits, provided that  
24 the copayments, deductibles, or limitations are reported to, and  
25 held unobjectionable by, the commissioner and set forth to the  
26 insured pursuant to the disclosure provisions of Section 10603.

27     (c) *This section shall not apply to a health insurance policy*  
28 *purchased by the Board of Administration of the Public Employees’*  
29 *Retirement System pursuant to the Public Employees’ Medical*  
30 *and Hospital Care Act (Article 1 (commencing with Section 22750)*  
31 *of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government*  
32 *Code).*

33     SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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